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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,860	02/01/2006	Kenneth J. Zwick	19901	2178

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KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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09/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,860	Applicant(s) ZWICK ET AL.	
	Examiner José A. Fortuna	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/08/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-66 are objected to because of the following informalities: even though the use of acronyms is permitted in a claim, in order to improve the reading, it is recommended to include its definition, at least at the first usage. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the term "COF" renders the claim indefinite since it is unclear what coefficient of friction is measured, i.e., wet or dry? Kinetic or Static?. Therefore, the patent protection desired cannot be ascertained.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
7. Claims 1-66 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Trokhan et al., US Patent No. 5,538,595 or Ampulski et al., in both US Patent Nos. 5,573,637 and 5,059,282 or Batra et al., US Patent No. . 6,162,327.

All of the above patents teach a tissue products, including facial tissues, which are made using a multilayered headbox and are creped or uncreped and treated, with a polysiloxane compound that is added and the dry end of the papermaking process and more specifically before the reeling of the web, see abstracts and figures. The polysiloxanes compound are the same as described in the specification, see Ampulski et al., 5,573,637, column 7, line 1 through column 9, line 2 and in column 10, line 55 through column 12, line 16, they teach the same type of fibers, same layering techniques as disclosed in the present application. Batra et al. teach the layering of the tissue, column 5, lines 61-67, the application of the silicone., i.e., polysiloxane compound on the surface of the external

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layer(s), column 6, lines 37-55; they also teach same type of fibers and the same type of drying operation, throughdrying with or without creping, column 2, lines 39-67. None of the measure the claimed properties in their tissues or they use different techniques, especially for the measuring of the COF, which gives different units; however, the properties “Must” be the same since the tissues are made using the same raw materials at the same or overlapping addition rate and the same process of making. It seems that the tissues of the cited references have all the limitations of the claimed tissues or at the very least the minor modification(s) to obtain the claimed invention would have been obvious to one of ordinary skill in the art.

8. Claims 1-66 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shannon et al., US Patent No. 7,147,751 B2 or Lindsay et al., US patent No. 6,998,017.

All of the above patents teach a tissue products, including facial tissues, which are made using a multilayered headbox and are creped or uncreped and treated with an antifriction compound with can include a polysiloxane compound, that is added and the dry end of the papermaking process, i.e., topically applied to the surface and more specifically before the reeling of the web, see abstracts and figures. Shannon et al. teach the same type of fibers, same layering techniques as disclosed in the present application, column 3, line 56 through column 4, line 13; the same type of tissues, i.e., facial tissues with the same fibers a s construction as disclosed by the current application, column 10, line 29 through column 11, line 39 . Lindsay et al. teach the layering of the tissue, column 33, line 46 through column 35, line 20, the application of the silicone., i.e., polysiloxane

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compound on the surface of the external layer(s), column 39, lines 11-39; they also teach same type of fibers and the same type of drying operation, throughdrying with or without creping, column 7, line 61 through column 8, line 61. None of the measure the claimed properties in their tissues or they use different techniques, especially for the measuring of the COF, which gives different units; however, the properties “Must” be the same since the tissues are made using the same raw materials at the same or overlapping addition rate and the same process of making. It seems that the tissues of the cited references have all the limitations of the claimed tissues or at the very least the minor modification(s) to obtain the claimed invention would have been obvious to one of ordinary skill in the art.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of “Tissue with Low COF and High Mucus Removal.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/José A Fortuna/
Primary Examiner
Art Unit 1791

JAF